

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner is a disabled individual who requires a legal guardian to conduct his affairs. In December 2007 the Department sent the petitioner's guardian a notice that the petitioner's continuing eligibility for the Choices for

Care program would be reviewed in January 2008, and that the petitioner had to file a review application by a certain deadline.

2. When the Department had not received a response from the petitioner by that deadline it sent the petitioner's guardian a notice on January 17, 2008 that the petitioner's eligibility for Choices for Care would end on January 31, 2008.

3. The Department did not hear anything from the petitioner or anyone acting in his behalf until July 2008, when a newly-appointed guardian inquired about his eligibility for Choices for Care and filed a new application in his behalf.

4. The Department granted this application retroactive to April 1, 2008, the maximum three months allowable under the regulations (see *infra*).

5. The petitioner alleges that his prior guardian in January 2008 had abandoned him and absconded with some of his money. Because of this he requests that his coverage be made retroactive to February 1, 2008. He does not dispute that nobody in his behalf contacted the Department prior to July

2008.¹ He also does not dispute that the Department provided clear and timely written notice of its decision to terminate the petitioner's coverage at the end of January.

ORDER

The Department's decision is affirmed.

REASONS

The petitioner admits that the Department's notice in January 2008 informed him that he would be ineligible for Choices for Care as of the end of that month. He also does not dispute that the notice also contained other prominent advisories about contacting the Department for more information and about the petitioner's appeal rights.

Unfortunately, on any new application the Medicaid regulations allow for a maximum of three months retroactive coverage if the applicant is found to have been eligible during that period. W.A.M. § 411.1. The petitioner has not provided any argument that the Department is required to make an exception to this policy based on the negligence or malfeasance of an applicant's legal guardian.

¹The petitioner alleges that certain medical providers have not been paid for services rendered in February and March of 2008. It would appear, however, that those providers must accept some of the responsibility for their apparent failure to make any inquiries in the petitioner's behalf during that time.

To the extent that the petitioner's request for fair hearing in this matter can be considered an appeal of the Department's January 2008 eligibility decision itself, it is clearly untimely. Fair Hearing Rule No. 1000.2. For the above reasons, the Department's decision in this matter must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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